



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

OCT 15 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Bickerton
Barry Sullivan
Bickerton, Saunders, Dang & Sullivan
Topa Financial Center
745 Fort Street
Suite 801
Honolulu, HI 96813

RE: MUR 5819
U.S. Chamber of Commerce *et al.*

Dear Msrs. Bickerton and Sullivan:

This is in reference to the complaint you filed with the Federal Election Commission (the "Commission") on September 21, 2006, concerning Case for Senate and James Case, in his official capacity as treasurer, and the United States Chamber of Commerce (the "Chamber"). Based on that complaint, on June 28, 2007, the Commission found that there was no reason to believe that Case for Senate and James Case, violated the Federal Election Campaign Act of 1971, as amended (the "Act") in connection with this matter, but that there was reason to believe that the Chamber violated 2 U.S.C. §§ 441b(a) and 441d(a)(3) and instituted an investigation of this matter.

After considering the circumstances of this matter, the Commission determined to take no further action as to the Chamber, and closed the file in this matter on October 11, 2007. At the same time, the Commission admonished the Chamber that it appears to have violated 2 U.S.C. §§ 441b(a) and 441d(a)(3) by using corporate funds to pay for a telephone message that expressly advocated the election of a candidate for federal office and failed to include the Chamber's street address, telephone number or Web address, and state that the message was not authorized by a candidate or candidate's authorized committee.

The Factual and Legal Analyses explaining the Commission's decisions are enclosed. Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

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The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact me at (202) 694-1650.

Sincerely,



Adam Schwartz
Attorney

Enclosures
Factual and Legal Analyses

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

Respondent: Case for Senate and James Case,
in his official capacity as treasurer

MUR: 5819

This matter arises from a complaint filed by James J. Bickerton and Barry A. Sullivan concerning an automated telephone call made in connection with the 2006 Hawaii Democratic primary election. On September 15, 2006, eight days before the Hawaii Democratic primary election, the U.S. Chamber of Commerce paid for automated telephone calls in Hawaii with the following message:

Hello, I'm calling with an important message for absentee voters about Congressman Ed Case. Ed Case has over twenty years experience in both the public and private sector, and he has fought hard and delivered on his promises while representing us in the US House the past four years. Ed Case supports tax cuts that have helped put more money in the pockets of Hawaii's families. Ed Case also supports Small Business Health Plans, which would give small businesses and the self-employed greater access to affordable health plans. Ed Case has made the tough decisions that are right for Hawaii, even if it's not popular with partisan politicians.

Please visit www.movehawaiiforward.com to learn more. This message was paid for by the U.S. Chamber of Commerce. Thank you.

Because there is no allegation or information to suggest that Case for Senate or James Case, in his official capacity as treasurer, participated in the automated telephone call or coordinated with the U.S. Chamber of Commerce regarding the call, the Commission finds no reason to believe that Case for Senate or James Case, in his official capacity as treasurer, violated the Act in connection with this matter.

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

Respondent: United States Chamber of Commerce

MUR: 5819

I. INTRODUCTION

This matter arises from a complaint alleging that the U.S. Chamber of Commerce (the "Chamber") violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by using corporate funds to finance the production and dissemination of an automated telephone message expressly advocating the election of Ed Case, former Representative to the U.S. House of Representatives for the Second District of Hawaii and a candidate for the Democratic nomination for U.S. Senate for Hawaii in 2006. On June 28, 2007, the Commission found reason to believe that the Chamber violated 2 U.S.C. § 441b(a) by using corporate funds to pay for an automated telephone message that expressly advocated the election of Ed Case to the United States Senate and violated 2 U.S.C. § 441d(a)(3) by failing to include language in the message stating the Chamber's street address, telephone number or Web address, and that the message was not authorized by a candidate or candidate's authorized committee.

II. DISCUSSION

In its response, the Chamber stated that it hired the telemarketing company Feather, Larson & Synhorst to produce and disseminate the automated telephone message throughout Hawaii. *See Response.* According to the response, Feather, Larson & Synhorst placed a total of 54,979 telephone calls and billed the Chamber \$2,474.06.¹ *See id.*

¹ This amount appears to be a reasonable fee for the services provided. According to the rate quoted on-line by the telemarketing firm VoiceShot, the charge for every successful 60-second robocall made is \$.12. *See* <http://www.voiceshot.com/public/outboundpricing.asp> (visited August 28, 2007). The Chamber's message is approximately 35 seconds in length. In addition, we do not know how many of the 54,979 calls made were successful.

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III. CONCLUSION

Based on the relatively small amount in violation, the Commission takes no further action other than to admonish the United States Chamber of Commerce that its actions violated 2 U.S.C. §§ 441b(a) and 441d(a)(3).

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